

**UNITED STATES BANKRUPTCY COURT**

Eastern District of California

**Honorable Ronald H. Sargis**

Bankruptcy Judge

Modesto, California

**June 15, 2023 at 2:00 p.m.**

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**THIS MATTER WILL BE HEARD ON THE COURT'S 10:30 A.M. CALENDAR,  
TO BE CONDUCTED IN CONJUNCTION WITH THE DEBTOR/DEBTOR IN  
POSSESSION'S OBJECTION TO CLAIM OF THE U.S. SMALL BUSINESS  
ADMINISTRATION**

1. [22-90296-E-11](#)      **PROVIDENT CARE, INC.**      **CONTINUED STATUS CONFERENCE RE:**  
[CAE-1](#)           **VOLUNTARY PETITION**  
8-29-22 [\[1\]](#)

<p><b>The Status Conference is continued to <b>xxxxxxx</b> on <b>xxxxxxx</b> , 2023.</b></p>
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**JUNE 15, 2023 STATUS CONFERENCE**

No updated Status Report has been filed by the Debtor/Debtor in Possession or the Subchapter V Trustee. The Confirmation Hearing on the proposed Subchapter V Plan was set for January 26, 2023. Order; Dckt. 51. It was then continued to April 6, 2023. Civ. Min.; Dckt. 65. The Confirmation Hearing has now been continued to August 10, 2023. Order; Dckt. 100. The continuance was necessary to allow for the Debtor/Debtor in Possession to address a disputed SBA claim and the related claim by Miller and Comfort (guarantors of the SBA obligation). That Objection is pending, as well as a request by Miller and Comfort to join/intervene in the Objection to Claim Contested Matter.

At the Status Conference, **xxxxxxx**

**FEBRUARY 18, 2023 STATUS CONFERENCE**

On November 27, 2022, Debtor/Debtor in Possession filed its Subchapter V Small business Plan. Dckt. 50. The confirmation hearing has been continued to April 6, 2023. Order, Dckt. 63. Civil Minutes, Dckt. 65. This continuance was requested by the Debtor/Debtor in Possession, Subchapter V Trustee, and other parties in interest. Dckt. 61.

On February 10, 2023, Ally Bank filed a Motion for Relief From the Automatic Stay. Dckt. 68. The Motion relates to collateral identified as a Dodge Grand Caravan Passenger Minivan.

**June 15, 2023 at 2:00 p.m.**

On February 13, 2023, the Debtor/Debtor in Possession filed the Monthly Operating Report for November 2022. This showed a middle five figure negative cash flow for the November 2022.

On February 13, 2023, the Debtor/Debtor in Possession also filed the Monthly Operating Report for December 2022. Dckt .75. This shows the cash flow for December 2022 is only (\$100).

At the Status Conference, counsel for the Debtor/Debtor in Possession suggested that the Status Conference be continued to April 6, 2023, the continued confirmation hearing date. The court continued the Status Conference to a month after the continued confirmation hearing .

2. [23-90029-E-11](#)      **RAMIL/MELINA ABALKHAD**      **CONTINUED STATUS CONFERENCE RE:**  
[CAE-1](#)           **VOLUNTARY PETITION**  
1-27-23 [\[1\]](#)

<b>The Status Conference is continued to 2:00 p.m. on <del>xxxxxxx</del> , 2023.</b>
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### **JUNE 15, 2023 STATUS CONFERENCE**

On June 1, 2023, the Debtor in Possession filed an updated Status Report. Dckt. 101. For the Southern California Property, the Debtor in Possession reports that they are still trying to get it lease and will be seeking authorization to employ a new agent and broker. The Turlock Property is currently being leased, debtor Ramil Abalkhad no longer residing there.

Mr. Abalkhad continues with his business as a self-employed credit counselor. Mrs. Abalkhad is now licensed as a real estate agent, but has not closed any sales yet. Mrs. Abalkhad no longer resides in the Calabassas Property.

Since the prior Status Conference, current counsel for the Debtor in Possession has worked with the Debtors and the Debtor in Possession to bring this case in compliance with the rules and the law. The Debtor in Possession believes that has been accomplished.

On April 28, 2023, the Trustee in the RJ Financial Bankruptcy Case filed a complaint in this Bankruptcy Case seeking to have obligations of the Debtors determined nondischargeable and for the Debtors to be denied a discharge.

The Debtor in Possession will file a proposed plan and disclosure statement when they have a tenant, and the corresponding income from, the Calabassas Property.

## **Amended Schedules**

The Debtors' Amended Schedules were filed on May 16, 2023. Dckt. 98. The substantial portion of their asset value is in the two real properties. On Schedule D, Debtors list (\$10,113,375) +/- as claims secured by the Calabassas Property (some of the judgment debt and liens as listed as disputed). On Schedule A/B, Debtors list this property as having a value of \$2.5MM. On Schedule C (Dckt. 1), Debtors claim homestead exemptions in both the Calabassas Property and the Turlock Property.

At the Status Conference, **XXXXXXX**

## **MARCH 9, 2023 STATUS CONFERENCE**

This voluntary Chapter 11 case was filed on January 27, 2023. The Debtor in Possession in possession filed a Status Report on February 23, 2023. Dckt. 34. Counsel for the Debtor in Possession reports that title reports are being obtained to insure that all possible secured claims are identified. It appears at this time there may be only one secured claim, and that a motion to value is in the offing.

The Debtor in Possession is working to get the monthly operating reports filed, having obtained the court authorized services of a CPS to assist.

The court notes that two applications to employ professional have been filed, but no orders have been entered. In reviewing the court's proposed order inbox, the court does not see proposed orders having been uploaded. These applications have been set for hearing on March 9, 2023.

Looking at Schedule A/B, the most significant asset is real property located in Calabassas, California, which is identified as a single-family home with a value of \$2.5 Million and in which Debtor asserts a homestead exemption. Dckt. 33.

On Schedule D Debtor lists creditors having secured claims against the Calabassas property totaling approximately (\$11,575,000), a portion of which is also secured by real property located in Turlock, California. General unsecured claims totaling approximately (\$461,000) are listed on Schedule F.

Interspersed in the Schedules are forms from the Central District of California and some of the forms stated that they are for filing a case in the Central District of California.

At the Status Conference, counsel for the Debtor in Possession addressed these shortcomings, assuring the court that counsel and his staff are reviewing the Local Rules

3. [23-90166-E-11](#)  
[CAE-1](#)

CUSTOM SPRAY SYSTEMS,  
INC.

STATUS CONFERENCE RE:  
VOLUNTARY PETITION  
4-18-23 [1]

Subchapter V

<b>The Status Conference is continued to 2:00 p.m. on <span style="color: red;">XXXXXXX</span> , 2023.</b>
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### **JUNE 15, 2023 STATUS CONFERENCE**

This Subchapter V Case was commenced on April 18, 2023. The Debtor/Debtor in Possession filed its Status Report on June 1, 2023. Dckt. 20. It is reported that following the death of one of the two principals of Debtor, the business operation focused on completing the existing projects and not seeking new business. There are payroll tax liabilities to address through the Bankruptcy Case.

A review of Schedule A/B reflects that the substantial assets of the Debtor, and now the Bankruptcy Estate, are accounts receivable. Dckt. 17. Debtor states on Schedule D that there are no creditors with secured claims. *Id.* On Schedule E/F, there is listed a substantial tax claim that would appear to consume all of the accounts receivable value, leaving little, if anything, for non-priority claim creditors.

At the Status Conference, XXXXXXX

**The Status Conference is continued to 2:00 p.m. on XXXXXXX, 2023.**

**JUNE 15, 2023 POST-CONFIRMATION STATUS CONFERENCE**

No updated post-confirmation Status Report has been filed by the Debtor/Plan Administrator. A review of the Docket reflects that the counsel for the Debtor in Possession has not filed an application for allowance of professional fees. In the June 27, 2022 Status Report, counsel for the Debtor in Possession stated that the application would be filed and the hearing set for August 4, 2022. That did not occur. No application has been filed since the last most recent Post-Confirmation Status Conference that was conducted on February 16, 2023.

The court notes that the counsel for the Debtor in Possession has been very active filing new Chapter 11 cases for other clients the past six months. It may be that in light of the abundance of work for these new cases, counsel has agreed to waive his fees and provide his services to Mr. Machado *pro bono* and the court can have the Clerk of the Court close the file for this Case.

Additionally, the Chapter 12 Trustee reported at the last Post-Confirmation Status Conference that the Debtor/Plan Administrator still had to complete the sale of the pigeons as part of funding the Chapter 12 Plan. The file does not indicate whether the pigeons have been sold.

At the Status Conference, XXXXXXX

**FEBRUARY 16, 2023 POST-CONFIRMATION STATUS CONFERENCE**

The court's order confirming the Chapter 12 Plan was entered on May 24, 2021. Dckt. 121. The Status Conference was continued to allow for the California Franchise Tax Board to file its Proof of Claim for capital gains sales taxes from the sale of equipment.

The court's review of the Docket on February 15, 2023, disclosed that no Proof of Claim has been filed and there is no motion/order for payment of an administrative expense.

At the Status Conference, counsel for the Debtor in Possession reported that the California Franchise Tax Board has not filed the claim for the taxes on the liquidation of assets, which are deemed to be a pre-petition claim. See 11 U.S.C. § 1232(d)(2).

Counsel for the Debtor in Possession needs to get his fee application filed.

The Debtor Plan Administrator must complete the sale of the pigeons

5. [10-90281-E-7](#)      LORRAINE/GARY ERWIN      CONTINUED STATUS CONFERENCE RE:  
[21-9005](#)      CAE-1      COMPLAINT  
ERWIN ET AL V. U.S. BANK,      5-24-21 [\[1\]](#)  
NATIONAL ASSOCIATION ET AL

This Adversary Proceeding having been dismissed by the Parties (Stipulation; Dckt. 109), **the Status Conference is concluded and removed from the Calendar.**

The Clerk of the Court may close the file for this Adversary Proceeding.

6. [21-90484-E-11](#)      TWISTED OAK WINERY, LLC      CONTINUED STATUS CONFERENCE RE:  
[CAE-1](#)      VOLUNTARY PETITION  
10-4-21 [\[1\]](#)  
  
Subchapter V

**The Status Conference is continued to 2:00 p.m. on ~~XXXXXX~~ , 2023.**

#### **JUNE 15, 2023 STATUS CONFERENCE**

No updated Status Report has been filed by the Debtor/Debtor in Possession. A review of the Docket reflects that the Debtor/Debtor in Possession has not lodged with the court a proposed order confirming the Subchapter V Plan. The court entered its order granting the Motion to confirm the Subchapter V Plan on February 22, 2023 - four months prior to the June 15, 2023 Status Conference.

As reflected in the court's order granting the Motion states that given the unique creditor class (only one creditor), the parties had not yet agreed whether this was a consensual or non-consensual Plan. The Parties requested that the court allow them to "work it out" on that issue.

At the March 9, 2023 Status Conference the Parties reported that the proposed confirmation order would be lodged with the court in April, 2023. No order was lodged with the court.

A review of the Docket reflects that no updated Status Report has been filed by the Debtor/Debtor in Possession or the Subchapter V Trustee. It is unclear whether this Subchapter V Plan is going to be confirmed and administered, or whether the case is taking a different turn.

At the Status Conference, **XXXXXXX**

### **MARCH 9, 2023 STATUS CONFERENCE**

On February 22, 2023, the court entered its order granting the Debtor/Debtor in Possession's Motion to Confirm the Subchapter V Plan in this case. No confirmation order has been entered as of this time. The order granting the Motion to Confirm provides that counsel for the Debtor/Debtor in Possession is to lodge with the court the proposed order confirming the Plan.

As noted in the Order granting the Motion to Confirm, counsel for the Debtor/Debtor in Possession Plan Administrator, counsel for U.S. Trustee, and counsel for the Mechanics Bank were to confer whether this confirmation, in light of the agreement reached with Mechanics Bank whether this was a consensual confirmation and the confirmation order could so provide. If not, then the confirmation would be of a non consensual plan.

At the Status Conference, counsel for the Debtor in Possession reported that they are drafting the Order Confirming the Plan and that it will be filed in the next month.